

NEW ZONING LEGISLATION



Comprehensive Economic Relief Bill signed by Governor on January 14, 2021 contains provisions amending the state's Zoning Act to include what some are referring to as housing choice measures designed to achieve the Governor's goal to have new housing units increase by 135,000 by 2025.

New provisions will have an effect in Andover and will briefly mention highlights of four of them.

Will reference "multi-family housing" which is defined as a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than one residential dwelling in each building.

THE FOUR PROVISIONS ARE:



- Multi-Family housing as of right
- Town Meeting Quantum Vote
- Special Permit Quantum Vote
- Bond requirement for appeals of approvals

MULTI-FAMILY HOUSING DISTRICT



It provides that a community served by the MBTA such as Andover, must provide at least one reasonably sized zoning district in which multi-family housing is permitted as of right, “without the need for a special permit, variance, zoning amendment, waiver or other discretionary zoning approval.”

Such a district must have a minimum housing density of 15 units per acre and be no more than one half mile from the nearest commuter rail station, subway station or bus station.

An MBTA community that fails to comply will not be eligible for funds from (1) **Housing Choice Initiative**; (2) the **Local Capital Projects Fund**; or (3) the **MassWorks Infrastructure Program**.

This provision will generate discussion in Andover as to whether the zoning district shall be near the Ballardvale Station or the downtown station.

There are many details such as what is a reasonably sized district to be further described in guidelines to be promulgated by the Department of Housing and Community Development.

TOWN MEETING VOTE



Up to now, MGL c. 40A, sec.5 requires a two-thirds vote of the Town for the adoption or amendment of zoning bylaws. The legislation reduces that to a simple majority for zoning bylaws that:

1. Allow for multi-family housing, mixed-use developments, accessory dwelling units, or open space residential developments as of right;
2. Allow for multi-family housing, mixed-use developments, increases in density, accessory dwelling units, and reductions in required parking by special permit;
3. Modify regulations concerning bulk and height of structures, yard size, lot area, setbacks, open space and parking to allow for additional housing units beyond what would otherwise be permitted by the existing bylaw.

SPECIAL PERMIT VOTES



Currently in Andover, a Special Permit can only be issued by a vote of 4 members of the 5 member Planning Board or Zoning Board of Appeals. The amendments provide that a Special Permit may be issued by a simple majority of the Special Permit Granting Authority rather than the otherwise required two-thirds supermajority for the following projects:

1. Multi-family housing within a half mile of an MBTA station if 10 percent of the units are affordable (at 80 percent AMI) for at least 30 years;
2. Mixed-use developments in population centers if 10 percent of the units are affordable (at 80 percent AMI) for at least 30 years;
3. Reduced parking to unit ratio requirements if the reduction results in the production of additional housing units.

BOND FOR APPEALS OF APPROVALS



The legislation amends M.G.L.c.40A, sec.17, to permit a court to require a bond from a plaintiff who appeals the grant of a Special Permit, variance or site plan approval.

The court may require a surety bond or cash bond up to \$50,000 upon a finding that “the harm to the defendant or to the public interest resulting from delays caused by the appeal outweighs the financial burden of the surety or cash bond on the plaintiffs.”

The court will determine if public interest such as additional housing outweighs the financial burden of plaintiff seeking to overturn the allowance of approvals of multi-family housing.

Clearly aimed at appeals of approvals issued to developers of multi-family housing units.